

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DAVID McKAY et al.,

Plaintiffs,

v.

CHRISTIAN HAGESETH et al.,

Defendants.

No. C-06-1377 MMC

**ORDER GRANTING IN PART AND  
DENYING IN PART PLAINTIFFS'  
MOTION TO CERTIFY INJUNCTIVE  
CLASS AND FOR PRELIMINARY  
INJUNCTION; VACATING HEARING**

(Docket No. 139)

Before the Court is plaintiff's motion, filed June 28, 2007, to certify an injunctive class pursuant to Rule 23(b)(2) of the Federal Rules of Civil Procedure, and for a preliminary injunction against defendants Frank Gruich and Gruich Pharmacy Shoppe (jointly, "Gruich").<sup>1</sup> On July 13, 2007, Gruich filed a statement of non-opposition. Having reviewed the papers submitted in support of the motion, as well as Gruich's statement of non-opposition thereto, the Court finds the matter appropriate for resolution without oral argument, see Civil L.R. 7-1(b), hereby VACATES the August 3, 2007 hearing, and rules as follows:

<sup>1</sup> The motion, as initially filed, also sought a preliminary injunction against defendant JRB Solutions, Inc. ("JRB"). By stipulation and order filed July 12, 2007, however, plaintiffs and JRB notified the Court that they had reached a tentative settlement and that plaintiffs were no longer seeking relief from JRB pursuant to the instant motion. See Stipulation and Order Regarding Plaintiff's Motion to Certify Injunctive Class and For A Preliminary Injunction, filed July 12, 2007.

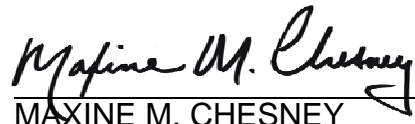
1           1. Because plaintiffs fail to define the proposed class they seek to certify or to seek  
2 appointment of class counsel, see Fed. R. Civ. P. 23(c)(1)(B), and because Gruich's  
3 agreement to be bound by the proposed preliminary injunction eliminates any need to  
4 certify a class in order for plaintiffs to obtain the injunctive relief they seek against Gruich,  
5 plaintiffs' motion is DENIED to the extent they seek certification of an injunctive class  
6 pursuant to Rule 23(b)(2).

7           2. In light of Gruich's statement of non-opposition to the proposed preliminary  
8 injunction, plaintiffs' motion is hereby GRANTED to the extent plaintiffs seek a preliminary  
9 injunction against Gruich. Defendants Frank Gruich and Gruich Pharmacy Shoppe are  
10 hereby ENJOINED from either selling or facilitating the sale of prescription drugs over the  
11 internet. No bond need be posted.

12           This order terminates Docket No. 139.

13           **IT IS SO ORDERED.**

14           Dated: July 23, 2007

  
MAXINE M. CHESNEY  
United States District Judge